

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CHARLES LUCIA,

Petitioner,

v.

STATE OF NEVADA,

Respondent.

Case No. 2:21-cv-01280-GMN-EJY

ORDER

Charles Lucia has submitted what he has styled as a *pro se* motion for amended judgment of conviction (ECF No. 1-1). His filing suffers from several defects. First, he has failed to include either the \$5.00 filing fee or a fully completed application to proceed *in forma pauperis*. Local Rule LSR 1-2.

Second, to challenge his state court conviction or sentence in federal court he must file a federal petition for writ of habeas corpus and that petition must be on the court's form. This court may entertain a petition for writ of habeas corpus "in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254(a). Alleged errors in the interpretation or application of state law do not warrant habeas relief. *Hubbart v. Knapp*, 379 F.3d 773, 779-80 (9th Cir. 2004).

It appears that Lucia was sentenced, pursuant to a state-court judgment of conviction, in January 2021 and that he seeks to challenge the computation of credit for time served. He must exhaust his administrative remedies and seek relief in state court.

1 *Rose v. Lundy*, 455 U.S. 509 (1982); 28 U.S.C. § 2254(b). The court also notes that this
2 may be purely an issue of state law, not an issue of federal constitutional error.

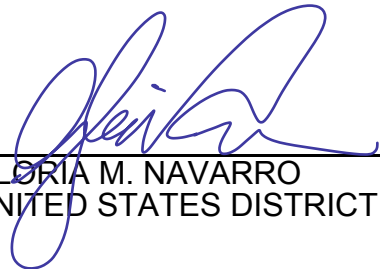
3 Accordingly, this action will be dismissed as improperly commenced and for
4 failure to state a claim for which relief may be granted.

5 **IT IS THEREFORE ORDERED** that this action is dismissed without prejudice as
6 improperly commenced and for failure to state a claim cognizable in federal habeas
7 corpus.

8 **IT IS FURTHER ORDERED** that a certificate of appealability is denied.

9 **IT IS FURTHER ORDERED** that the Clerk enter judgment accordingly and close
10 this case.

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12 DATED: 30 July 2021.

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16 GLORIA M. NAVARRO
17 UNITED STATES DISTRICT JUDGE
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